

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DERRICK SUTTON,

Plaintiff,

vs.

LARSON, *et al.*,

Defendants.

Case No. 12-cv-1241-JPG-PMF

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Report and Recommendation (“R & R”) (Doc. 53) of Magistrate Judge Philip M. Frazier recommending this Court deny defendant Larson’s motion to dismiss for lack of prosecution (Doc. 37).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the R & R. The Court has reviewed the entire file and finds that the R & R is not clearly erroneous. Accordingly, the Court **ADOPTS** the R & R (Doc. 53) and **DENIES** Larson’s motion to dismiss (Doc. 37).

**IT IS SO ORDERED.**

**DATED:** April 7, 2014

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**